

In the Matter of Merchant Mariner's Document No. Z-922576 and all other Seaman Documents
Issued to: HERMAN J. DOMING

DECISION OF THE COMMANDANT

1497

HERMAN J. DOMING

This appeal has been taken in accordance with Title 46 United States Code 239b and Title 46 Code of Federal Regulations 137.30-1.

By order dated 28 October 1964, an Examiner of the United States Coast Guard at New Orleans, Louisiana, revoked Appellant's seaman documents upon finding him guilty of the charge of "conviction for a narcotic drug law violation." The specification found proved allege that, on or about 26 November 1956, Appellant was convicted by the United States District Court, Eastern District of Louisiana, a court of record, for violation of a narcotic drug law of the United States. Nothing relative to the conviction is disclosed by the record.

At the hearing, Appellant elected to act as his own counsel. Appellant entered a plea of guilty to the charge and specification. No evidence was introduced.

At the end of the hearing, the Examiner rendered a written decision in which he concluded that the charge and specification had been proved by plea. The Examiner then entered an order of revocation. On appeal, Appellant contends that since his conviction in 1956, he has been in no trouble, he has sailed on several vessels, and he has become rehabilitated.

OPINION

An order of revocation is required to be imposed by an examiner for a narcotics conviction of this kind after a seaman admits by a plea of guilty that he has been convicted by a court of record for a narcotic drug law violation within ten years prior to the institution of action by the Coast Guard. See Commandant's Appeal Decisions Nos. 1372 and 1382. Mitigating factors have no bearing on the propriety of the order imposed by the examiner.

It is not the function of this appeal procedure to remove the effect of an order of revocation unless an abuse of discretion has been shown by proof of laches or by inclusive evidence in the record that the seaman is fit to resume his livelihood at sea. See Commandant's Appeal Decisions Nos. 1382 and 1480. The unsupported contentions raised on appeal in this case are not sufficient to establish this.

However, such evidence of rehabilitation as Appellant may submit will be considered by a special board, as provided for in 46 Code of Federal Regulations 137.13-10, if Appellant applies for administrative clemency in order to obtain a new document.

Despite the fact that Appellant entered a plea of guilty, the record of conviction should have been introduced in evidence to further determine the nature of the violation and details pertaining to the conviction.

ORDER

The order of the Examiner dated at New Orleans, Louisiana, on 28 October 1964, is **AFFIRMED**.

W.E. Shields
Vice Admiral, United States Coast Guard
Acting Commandants

Signed at Washington, D.C., this 7th day of April 1965.

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NARCOTICS STATUTE

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WAIVERS

three year waiting period, latter concerning